

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION 3**

VICKI SCHMIDT,	)	
COMMISSIONER OF	)	
INSURANCE,	)	
<i>In her Official Capacity,</i>	)	
	)	
Petitioner,	)	
	)	Case No. 2019 CV 351
vs.	)	
	)	
PHYSICIANS STANDARD INSURANCE	)	
COMPANY,	)	
	)	
Respondent.	)	

**LIQUIDATOR’S SIXTH STATUS REPORT**

Vicki Schmidt, in her capacity as the court-appointed liquidator (“Liquidator”) of Physicians Standard Insurance Company (“PSIC”), provides the following status report relating to PSIC, pursuant to the Court’s Order of Liquidation (“Liquidation Order”), the Court’s Order on Liquidator’s Motion to Establish Certain Procedures, Extend Certain Deadlines, and to Approve Fees and Expenses in Relation to PSIC (“Procedural Order”), and K.S.A. 40-3622(d).

**I. Introduction**

This Court entered the Liquidation Order effective December 1, 2019 (“Liquidation Date”). Subsequently, on May 22, 2020, the Court issued its Procedural Order, which set regular reporting deadlines of every 6 months beginning June 1, 2020. This status report focuses on developments that occurred since the Liquidator filed her last report on June 1, 2022.

## **II. The Update on Policyholder and Other Creditor Claims-Related Activities**

As previously reported, the Liquidator received a total of 137<sup>1</sup> proofs of claim. To date, the Liquidator has denied 62 claims, consisting of 56 policyholder (class 2) claims and six non-policyholder (classes 5-7) claims, and totaling at least \$753,989.20.<sup>2</sup> Four other proofs of claims were denied but the claimants objected to the denials. One of these objections (a class 5 claim in the amount of \$1,250,000.00) will be scheduled for a hearing before the Liquidation Court after the parties have completed briefing on the Liquidator's Motion for Summary Judgment. The Liquidator is continuing the process of evaluating the three remaining objections.

Since the last report, the Liquidator has denied seven additional proofs of claims totaling \$3,115,509.00; however, the deadline for objecting to those claims has not yet passed and thus are not reflected in the attached unaudited statement of assets and liabilities.

The Liquidator continues to adjudicate the validity of remaining claims, the majority of which request refunds for premiums paid for extended reporting ("tail") policies or for reimbursement for the cost of replacement tail policies. Other pending claims relate to litigation matters being handled by The Missouri Property & Casualty Insurance Guaranty Association ("MIGA") and cannot be reviewed for denial or approval until the related lawsuits are resolved. The Liquidator will submit a report and recommendation for allowance of claims pursuant to K.S.A. 40-3642 once the Liquidator's review of all claims is complete.

## **III. Collection Efforts for Premium Receivables**

As previously reported, PSIC's financial records indicated it had premiums reportedly owed to PSIC by slightly over 100 policyholders at the time of the Liquidation. The amounts owed

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<sup>1</sup> Some proofs of claim contained more than one claim or more than one class of claim.

<sup>2</sup> Some claims did not specify an amount or stated the claim was for the "policy limits." The \$753,989.20 amount is the sum of denied claims which specified an actual dollar amount claimed.

range from less than \$1.00 to \$22,744.00, with 59 policyholders owing less than \$50. While the entirety of the premium receivables is likely not collectable, the Liquidator has continued its collections efforts for these. At this time, the Liquidator has collected \$7,155.28 of these receivables. This process has been challenging due to discrepancies in amounts purportedly owed by policyholders as shown in PSIC's internal accounting system (QuickBooks) and its invoicing system (JDI), which was also used for preparation of its annual and quarterly statutory reporting to the Kansas Insurance Department. In many instances it is not possible to reconcile the amounts purportedly owed. The Liquidator is continuing to attempt to reconcile the premium receivables and pursue collection of amounts due from policyholders as the unpaid premium amounts can be verified.

#### **IV. Update on Claims Handled by MIGA**

As of September 30, 2022, MIGA is handling 53 insured loss claims (i.e., claims by third parties, such as patients) against PSIC insured medical providers filed either (1) before the date of the Liquidation Order, or (2) after the date of the Liquidation Order but which PSIC had notice of prior to the date of liquidation. As of September 30, 2022, MIGA had settled 22 claims and 14 additional claims have been dismissed. MIGA continues to provide the Liquidator with quarterly financial reports on the amounts it has incurred in administrative expenses and loss claim costs, including defense costs. The Liquidator continues to work closely with MIGA on matters such as settlement discussions and coordinating claims against the Liquidation Estate which can be denied due to settlement or dismissal of litigation relating to a claim.

#### **V. Online Information Regarding the Liquidation Matter**

The Liquidator maintains information on the Kansas Department of Insurance website to provide historical and ongoing information about the PSIC Liquidation for access by the public

and claimants. Information includes links to court orders, various notifications to policyholders since 2019, the proof of claim form and related filing information, a frequently asked questions (FAQ) document which is updated from time to time, and filings by the Liquidator with the court.

On September 26, 2022, the Liquidator sent a letter to all claimants who have pending proofs of claim with the Liquidation Estate, to advise them of the status of the liquidation matter, the process for having claims approved or denied, and the timeframe for which non-denied claims would likely be paid. The Liquidator also posted this letter on the Department's website. Online information regarding PSIC can be found at the Department's website at: <https://insurance.kansas.gov/legal-issues/#psic>. The Liquidator also maintains a dedicated email address for PSIC-related matters which is monitored daily: [kid.psic@ks.gov](mailto:kid.psic@ks.gov).

#### **VI. MPM-PPIA Receivership/Fraudulent Transfer Action**

PSIC was previously majority-owned by a medical malpractice insurer based in Missouri, MPM-PPIA. On December 31, 2018, MPM-PPIA filed an action for voluntary commercial receivership in Franklin County, MO, *In re: Missouri Professionals Mutual-Physicians Professional Association*, Case No. 18AB-CC00267, with Daniel E. Leslie appointed as Receiver. The Receiver for MPM-PPIA has also asserted a fraudulent transfer action against PSIC in relation to a security interest granted to PSIC in MPM-PPIA's building shortly before MPM-PPIA filed for voluntary receivership. That action is styled *In re: Missouri Professionals Mutual-Physicians Professional Association v. Physicians Standard Insurance Company*, Case No. 19AB-CC00177.

For several months that matter was stayed upon the agreement of the parties, during which the Liquidator attempted to reach a resolution with the MPM-PPIA Receiver, but without success. On October 13, 2020, the Missouri Court gave the Receiver leave to file a First Amended Petition. PSIC filed an Answer and Affirmative Defenses to the First Amended Petition and Counterclaim

on November 2, 2020. The Liquidator continues to work toward resolution of this matter with the Receiver.

**VII. Action by the Liquidator against MPM-PPIA, *et al.***

On July 2, 2020, the Liquidator filed a petition in this Court, case number 2020-CV-364, against several former PSIC-related entities, including MPM-PPIA, Jonathan L. Downard (“Downard”), Hansen, Stierberger, Downard, Schroeder & Head LLC (“HSDSH”), Corporate Insurance Services (“CIS”), James Randy Snodgrass, J. Randy Snodgrass P.C. (“Snodgrass Defendants”), Timothy Hayden Trout (“Trout”), and The Baltic & Mediterranean Company, LLC (“B&M”). On August 25, 2020, Defendants Downard, HSDSH, CIS, and B&M, with consent of the other defendants, filed a Notice of Removal in the United States District Court for the District of Kansas. The District of Kansas case number for the action is 5-20-CV-04047-EFM-ADM.

Because several of the Defendants had also filed claims in the liquidation which involved the same transactions that were the subject of the Liquidators’ claims, the Liquidator sought remand to the state court. On June 21, 2021, the federal court denied the Motion for Remand, but stayed the federal proceeding pending developments in the liquidation case.

The Liquidator sent denials of the proofs of claim filed by Defendants J. Randy Snodgrass, CPA, P.C.; Corporation Insurance Services LLC; and The Baltic & Mediterranean Company LLC, on August 25, 2021. Under the Kansas Insurers Supervision, Rehabilitation and Liquidation Act, the Defendants had 60 days, or until October 24, 2021, to submit any objection to the denials to the Liquidator.<sup>3</sup> None of the Defendants filed an objection to the denial of their respective proofs of claim. Under K.S.A. 40-3639 and 40-3642, the Liquidator will seek the Liquidation Court’s approval of the Liquidator’s disposition of claims, including with regard to denial of these claims.

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<sup>3</sup> K.S.A. 40-3639.

Defendant MPM-PPIA also filed a proof of claim in the PSIC liquidation and, similarly, PSIC filed a claim in the MPM-PPIA receivership. The receivers for PSIC and MPM-PPIA engaged in an extended period of settlement negotiations, but they have been unable to reach a compromise of the various claims. The Liquidator therefore is preparing a notice of denial of MPM-PPIA's proof of claim filed in the PSIC liquidation. MPM-PPIA has 60 days to file any objection to the denial under K.S.A. 40-3639. If MPM-PPIA objects, the matter will be set for hearing before this Court as early as is practical.

The Liquidator sent a written notice of denial of Defendant Timothy H. Trout's proof of on August 25, 2021. Mr. Trout filed a timely objection to the Liquidator's notice of denial. The parties are engaged in various discovery disputes and the Liquidator has filed a Motion for Summary Judgment. Those matters are at various stages of briefing.

#### **VIII. Accounting and Other Items**

PSIC's unaudited financial statements as of September 30, 2022, is attached to this status report as Exhibit A. The Liquidator will continue to amend or supplement that asset list pursuant to K.S.A. 40-3628(a) or at the Court's request.

Respectfully submitted,

VICKI SCHMIDT, COMMISSIONER OF  
INSURANCE

*/s/ Kirsten A. Byrd*

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**ATTORNEYS FOR THE LIQUIDATOR**

**CERTIFICATE OF SERVICE**

The undersigned certifies a true and correct copy of the above and foregoing was served by email on December 1, 2022, by causing the same to be sent by electronic mail addressed to the following, and by filing the same via the Court's electronic filing system, causing email service to all counsel of record:

Shelley Forrest  
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**Attorneys for Claimant Timothy H. Trout**

*/s/ Kirsten A. Byrd*  
\_\_\_\_\_  
Attorney for Petitioner



Physicians Standard Insurance Company  
Statement of Net Assets and Net Liabilities (Unaudited)  
As of September 30, 2022

**Assets**

Cash Assets - Checking/Savings	\$ 4,307,761
Short and Long Term Investments	\$ 725,187
Premium Receivable <sup>1</sup>	\$ 109,991
Fixed Assets <sup>2</sup>	\$ 9,000
<b>Total Assets</b>	<b>\$ 5,151,939</b>

**Liabilities**

**Class 1 Administrative Claims**

Liquidator Administrative Expenses Accounts Payable	\$ 82,801
MIGA Administrative Expenses Incurred	\$ 910,800
Reserve for MIGA anticipated future administrative expenses <sup>3</sup>	\$ 798,274
Reserve for Liquidator Anticipated Future Legal-Related Expenses <sup>4</sup>	\$ 1,211,066
Reserve for Liquidator Miscellaneous Expenses <sup>5</sup>	\$ 188,863
<b>Total Class 1 Expenses</b>	<b>\$ 3,191,804</b>
<b>Assets less Class 1 Administrative Expenses</b>	<b>\$ 1,960,135</b>

**Class 2 Policyholder Claims**

MIGA Claims Paid to date <sup>6</sup>	\$ 4,483,663
Reserve for MIGA Anticipated Future Claim Payments <sup>3</sup>	\$ 773,056
KIGA <sup>7</sup> Unearned Premium Refunded	\$ 2,310
Class 2 Claims filed with Liquidator <sup>8</sup>	\$ 11,503,602
<b>Total Class 2 Claims</b>	<b>\$ 16,762,631</b>

<b>Proofs of Claims Classes 3 to 9<sup>9</sup></b>	<b>\$ 6,644,462</b>
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<b>Total Liabilities (All classes)</b>	<b>\$ 25,598,897</b>
<b>Total Net Liabilities (Assets minus liabilities)</b>	<b>\$ (21,446,958)</b>

1. Reflects the amount on PSIC's books consisting of premium purportedly owed to PSIC by approximately 110 policyholders. The entirety of this amount is likely not collectable, but reasonable efforts will be utilized to collect accounts above an amount to be determined.

2. Estimated value of data processing equipment.

3. Estimates provided by staff of the Missouri Insurance Guaranty Association ("MIGA") to finalize PSIC MIGA-covered claims through 12/31/2027.

4. These include fees for litigation-related matters, including outside counsel fees, forensic financial analysis, expert witness fees and court reporting fees.

5. Includes anticipated administrative costs such as accounting, bank service fees, and computer software and storage fees through 12/31/27.

6. Includes reimbursement of unearned premium of \$299,715, Claim payments of \$2,729,771 and Defense and Containment Expenses of \$1,454,178, as shown in the MIGA D Report.

7. Kansas Insurance Guaranty Association

8. These include claims relating to tail policies (totaling \$2,287,690) and claims relating to litigation either being handled by MIGA or where MIGA denied coverage for the claim (totaling \$9,215,912). They do not include claims denied by the Liquidator which denials were not objected to by the claimant. The Liquidator continues to evaluate whether some of these claims should be denied. It is anticipated the Liquidator will complete this process by 12/31/2023 so this number may be reduced by that time.

9. Includes claim of MPM-PPIA filed by the MO Receiver in the amount of \$3,019,017. Also includes a contractual claim in the amount of \$1,250,000, and one claim for refund of value of PSIC stock. Excludes Claims denied by the Liquidator and to which no objection was filed by the claimants.

